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11/17/2016 1:25:40 PM
James A. Noel
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STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

NICHOLAS BACA

D-202-CV-2016-07215

Plaintiff,

vs.

DANNY HOWE and CC JONES, INC., an Arkansas Corporation,

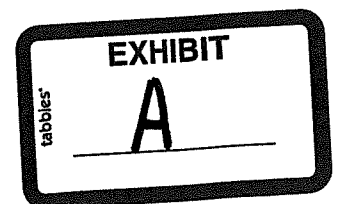
Defendant.

COMPLAINT FOR PERSONAL INJURIES AND FOR MONEY DAMAGES

COMES NOW PLAINTIFF, Nicholas Baca, by and through his attorneys of record, LAW OFFICE OF KEITH FRANCHINI (Keith Franchini, Esq.) and LAW OFFICES OF DAVID M. HOULISTON (David M. Houliston, Esq.) and for his Complaint states:

JURISDICTIONAL ALLEGATIONS

1. Plaintiff, Nicholas Baca (Baca) is a resident of Albuquerque, Bernalillo County, New Mexico, is over the age of 18 years, and is otherwise *sui juris*.
2. Upon information and belief, Defendant Danny Howe (Howe) is a resident of DeValls Bluff, Prairie County, Arkansas, is over the age of 18 years, is not on active duty in any branch of the United States of America, and at all times material hereto, was acting in the course and scope of his employment with Defendant, CC Jones, Inc.
3. Upon information and belief, Defendant, CC Jones, Inc. is believed to be an Arkansas corporation doing business throughout the United States and the employer of Defendant, Danny Howe.
4. The accident which is the subject of this Complaint occurred in Bernalillo County,



New Mexico.

5. The Court has jurisdiction to hear this claim and venue is properly before this Court.

**GENERAL ALLEGATIONS
COMMON TO ALL COUNTS OF THIS COMPLAINT:**

6. On May 19, 2016, Plaintiff was lawfully operating his motorcycle southbound on 12th Street in Albuquerque, New Mexico, when Defendant Howe, traveling northbound on 12th Street and intending to turn west onto I-40, cut in front of Plaintiff causing the Plaintiff to strike the right rear of the Defendant Howe's semi-truck.

7. Plaintiff was thrown from his motorcycle and sustained serious injuries to his left arm and leg.

8. Plaintiff was transported to the hospital by ambulance for his injuries.

**COUNT I:
NEGLIGENCE AGAINST DEFENDANT HOWE**

9. Plaintiff re-alleges paragraphs 1 through 8 and incorporates them herein, though as set forth fully herein.

10. The subject collision was the direct and proximate result of Defendant Howe's negligence in:

- a) Failing to operate his vehicle in a safe manner;
- b) Failing to give full time and attention to the operation of his truck;
- c) Disregarding Plaintiff's right of way on a green light at the Intersection of 12th Street and I-40;
- d) Failing to operate his truck in a reasonable and safe fashion.
- e) Failing to use due care.

11. In so acting, Defendant Howe failed to act responsibly under the circumstances and was negligent.

12. In so acting, Defendant Howe was negligent *per se*, including but not limited to his violations of §66-7-337 (failure to use due care) and §66-8-114 (careless driving).

13. As a direct and proximate result of Defendant Howe's negligence, Plaintiff suffered substantial injuries, damages, and losses, including, but not limited to, lost wages, past and future medical expenses, loss of his ability to enjoy life and participate in hobbies and recreational activities, pain and suffering, discomfort and inconvenience, and other damages.

**COUNT II:
NEGLIGENCE AND RESPONDANT SUPERIOR OF DEFENDANT CC JONES, INC.**

14. Plaintiff re-alleges and incorporates by reference the allegations set forth above as though fully set forth herein.

15. At all times relevant to this complaint, Defendant Howe was an employee and agent of Defendant CC Jones, Inc.,

16. At all times material hereto, including the subject date of the accident, Defendant Howe was acting in the course and scope of employment with Defendant, CC Jones, Inc.

17. Defendant CC Jones, Inc. is vicariously liable for Defendant Howe's actions.

WHEREFORE, Plaintiff prays for an Order of the Court giving judgment against Defendants in an amount reasonable to compensate Plaintiff for his injuries, damages, and losses, awarding Plaintiff the costs of this litigation, pre and post judgment interest and granting such further relief as may be deemed just and appropriate.

Respectfully Submitted:

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